



The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

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GREEN BAG APPOINTMENTS

Today the Governor's Office submitted the Green Bag appointments in the traditional green leather bag to the Senate for their advice and consent. Article II, Section 13 of the Maryland Constitution requires the Governor to submit nominations of civil officers to the Senate within 40 days of the beginning of each regular session. Since the 40th day falls on Sunday, the bag was delivered on the previous Friday.

COURTS AND CIVIL PROCEEDINGS

Same-Sex Marriage

The Civil Marriage Protection Act ([HB 438](#)) received a favorable report with no amendments from a combined vote of two House committees. Establishing that only a marriage between two individuals who are not otherwise prohibited from marrying is valid in this State, the bill is under discussion by the full House with amendments. A third reading floor vote is expected late Friday.

Jury Duty

The Senate amended and passed [SB 16](#), which prohibits an employer from requiring an employee to work on a day in which the employee is expected to respond to a summons issued for jury duty or serve on a jury.

Domestic Violence

Under [SB 359](#), eligibility for a domestic violence protective order is expanded to include individuals in an intimate dating relationship and individuals who have had a consensual or nonconsensual sexual relationship. The bill, heard this week by a committee, also authorizes a court, in a final protective order, to order a respondent to vacate and award temporary use and possession of a home to a nonspouse person eligible for relief if neither person has lived in the joint residence for at least 90 days.

Discrimination – Websites

A number of constituents, including individuals with disabilities, testified this week on [SB 278/HB 183](#) that extend the law related to discrimination by a place of public accommodation to the website of a business entity

that is a place of public accommodation or provides goods, services, entertainment, recreation, or transportation to any person in the State through the Internet, and has gross revenue of at least \$1 million. The legislation requires that websites be made accessible to the blind, visually impaired, and others with disabilities. The bills also expand available remedies for discrimination by a place of public accommodation.

CRIMES, CORRECTIONS, AND PUBLIC SAFETY

Child Pornography

The statute of limitations for the prosecution of possession of child pornography, a misdemeanor, is extended from one to three years under [SB 889/HB 349](#). The bills had hearings this week.

Pretrial Release

Also heard this week, [HB 338](#) prohibits a District Court commissioner from authorizing the pretrial release of a defendant charged with murder, manslaughter, sexual offense in the first, second, or third degree or assault with intent to commit such a sexual offense, sexual abuse of a minor, or carjacking. A judge may authorize the pretrial release of these defendants under specified conditions. The companion bill is [SB 690](#).

ECONOMIC AND BUSINESS ISSUES

Offshore Wind Energy Act of 2012

Governor O'Malley testified this week in support of his Administration bill promoting offshore wind energy generation. Under [SB 237](#), the State Renewable Energy Portfolio Standard (RPS) is altered beginning in 2017. The RPS requires that a specified percentage of Maryland's electricity supply come from renewable energy sources, and under the proposal, a specified percentage of that total must come from offshore wind energy. The bill further establishes an application and review process for proposed offshore wind projects within the Public Services Commission (PSC). The PSC may not approve projects unless they demonstrate

positive net benefits to the State and contain certain pricing provisions, including a cost that will not exceed \$2 per month for the average residential consumer. Additionally, the PSC is authorized to implement assessments on electric companies and electricity suppliers to recover costs to carry out the bill's provisions. The companion bill, [HB 441](#), will be heard next week.

EDUCATION

Compulsory Attendance

Currently, students between the ages of 5 and 15 must attend public school regularly unless the child is otherwise receiving regular, thorough instruction at an alternative setting (*i.e.*, a private or home school). Formally, this is known as compulsory school attendance. A Senate committee took testimony this week on [SB 362](#), which increases the age of compulsory school attendance from 15 to 16 starting June 1, 2014, and from 16 to 17 starting July 1, 2016, thereby potentially affecting the high school dropout rate. The State Superintendent of Schools may waive the age requirement under certain circumstances. The companion bill is [HB 373](#).

A similar bill, [SB 157](#), raises the age of compulsory attendance in Baltimore City. Students under the age of 18 will need to remain in school; children ages 16 and 17 may withdraw with the written consent of their parents.

Financial Literacy

A 2008 legislative Task Force to Study How to Improve Financial Literacy in the State recommended that Maryland schools take steps to increase financial literacy skills in students. The Maryland State Department of Education responded by requiring local boards of education to present, beginning in grade 3 until grade 12, an integrated financial literacy curriculum. A number of counties offer additional courses for high school students, and some integrate financial literacy content into one of the courses required for graduation.

[SB 307](#) goes a step further by requiring the State Board of Education to develop curriculum content for a semester-long high school course in financial literacy. Each local board of education statewide must implement the curriculum, and a student must complete the course in order to graduate from high school. The companion bill is [HB 191](#).

Schools Near Boundaries of Two Counties

[HB 335](#) allows a student who must travel more than 30 miles to reach the student's assigned secondary public school to attend instead a school in an adjoining county, if that school is closer than the assigned school. The nearer school in the adjoining county must also be below 80% capacity.

Social Media Privacy Protections in Higher Education

Some institutions of higher education have recently begun to create policies regarding the use of social media by students, particularly student-athletes. In October 2011, the University of Maryland, College Park issued social media guidelines for its more than 700 student-athletes. The guidelines remind student-athletes to think before using slurs about race, religion, or sexual orientation, to follow NCAA rules, and to monitor comments for offensive language.

[HB 310](#) prohibits an institution of higher education or postsecondary education from requiring a student or applicant to provide the institution with access to the student's personal Internet electronic accounts such as Facebook, Twitter, or other social or electronic accounts. The institution may not:

- require a student to disclose any user name, password, or other means for accessing a personal Internet site or electronic account;
- install monitoring or tracking software on a student's personal device; or
- refuse to allow a student to participate in activities sanctioned by the institution because of the student's refusal to comply with a request for access or specified software installation. Similar legislation ([SB 434/HB 746](#)) will have hearings in late February.

ELECTIONS AND ETHICS

Financial Disclosure – Mutual Funds

The Senate passed legislation ([SB 146](#)) specifying that financial disclosure statements filed under the Maryland Public Ethics Law need not include a schedule of each interest held by an individual in a mutual fund that is publicly traded on a national scale, unless the mutual fund is composed primarily of holdings of stocks and interests in a specific sector or area that is regulated by the individual's governmental unit.

The Ethics Commission indicates that because an individual investor does not have control over the trading of individual holdings in a mutual fund, it is

improbable that individuals subject to the financial disclosure requirements can impact the value of a mutual fund through the performance of State duties.

Voting in Maryland Elections

A number of bills related to voting are moving through the committee hearing process:

- *Polling Places – Proof of Identity* – Maryland would join 31 other states that have voter identification laws ([HB 113](#) and [SB 412](#). [HB 705](#) on the same subject has a hearing next week);
- *Registered Offenders at Polling Places* – If the polling place or an early voting center is located on school or child/day care property, a registered sex offender may vote only at an early voting center not located on school or child/day care property or by absentee ballot ([HB 200](#) and [HB 495](#));
- *Early Voting* – The early voting period, first used in 2010, is replaced with a shorter early voting period that applies to any future regularly scheduled primary or general election. ([HB 452](#) and [SB 69](#)). A proposed constitutional amendment gives the General Assembly the power to provide by law a process to allow a qualified voter to register and vote at a polling place where the voter may vote during early voting ([SB 339](#));
- *Voter Registration Agencies-Electronic Signatures* – Individuals may apply to register to vote electronically at voter registration agencies if the agencies develop electronic systems similar to the Motor Vehicle Administration's, enabling consent to the use of an electronic copy of their signature on file with the agency as the signature for their application ([HB 173](#));
- *Special Elections – Voting by Mail* – With at least one in-person voting center required, voting by mail may be used in a special election to fill a vacancy in certain elections ([HB 225](#)); and
- *Absentee Ballot List* – A voter who receives an absentee ballot may request an absentee ballot for the next subsequent election and then must be sent an absentee ballot for the next primary and general election immediately following the request and any intervening special elections ([SB 341/HB 657](#)).

Public Funding and Small Donor Act for General Assembly Elections

Proposals that repeal the Public Financing Act for gubernatorial tickets set up a comprehensive process for public funding for General Assembly elections ([SB 270/HB 195](#)).

Petitions – Confidentiality

Companion bills, [SB 91/HB 27](#), effective June 1, 2012, address public access to petitions. Currently, there is no restriction on public access to a petition in State law.

The 2012 bills specify that a petition is not subject to public inspection once it is filed with the appropriate election authority, unless a person requires access to the petition to facilitate judicial review of a determination concerning the sufficiency of the petition.

ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

Sustainable Growth and Wastewater Disposal

Administration bills based on the recommendations of the Task Force on Sustainable Growth and Wastewater Disposal received hearings this week. [SB 236/HB 445](#) alter elements of local comprehensive plans to authorize the establishment of four tiers based on specific land use characteristics. If a jurisdiction amends its comprehensive plan to include the tiers, development within each tier is subject to specific sewerage and land use restrictions. Minor subdivisions, as defined by each local jurisdiction as of January 1, 2012, in tiers "II," "III," and "IV" are prohibited from further subdivision, subject to certain exceptions.

In addition, the bills authorize the Department of the Environment (MDE) to establish regulations requiring nutrient offsets for all new subdivisions and require MDE to establish nutrient offsets for shared facilities and community sewage disposal systems. Other bills concerned with septic and sewerage approval that will be considered in the coming weeks include [SB 692/HB 47](#) and [SB 827](#).

Bay Restoration Fee

[SB 240/HB 446](#), Administration bills that alter the bay restoration fee structure beginning July 1, 2012, came before committees this week. The bills (1) increase the fee from \$2.50 to \$5 per month for those receiving an individual water or sewer bill from a billing authority without a water usage-based billing system; (2) increase the fee from \$30 to \$60 per year for each user of an on-site sewage disposal (septic) system or sewage holding tank that does not receive a water bill; and (3) replace the current flat fee of \$2.50 per month for residential users receiving a usage-based water or sewer bill, with a new fee based on water usage, which is \$0.90 per 1,000 gallons per month for the first 2,000 gallons, and \$1.25 for each additional 1,000 gallons used per month.

Hydraulic Fracturing in Marcellus Shale

Testimony was heard this week on [HB 296](#), which prohibits a person from shipping or transporting into the State, or storing, treating, discharging, or disposing of in the State, wastewater resulting from hydraulic fracturing activities occurring in another state. Among other bills addressing aspects of gas and oil well permitting and leasing introduced this session are: [SB 636/HB 1123](#), [SB 773/HB 732](#), [SB 798/HB 1204](#), [HB 1170](#), and [HB 1172](#).

Chesapeake Bay Watershed

[HB 33](#) (failed), an emergency bill that would have prohibited the State from submitting Watershed Implementation Plan documents to the U.S. Environmental Protection Agency that are based on nutrient or sediment reduction goals that exceed federal requirements, has been withdrawn.

FISCAL MATTERS

Sales Tax

The Administration's Maryland Transportation Financing and Infrastructure Investment Act of 2012 was introduced this week. [SB 971/HB 1302](#) impose a sales and use tax equivalent rate, based on the average semiannual retail price of motor fuel sold in Maryland, of 2% in fiscal 2013, not more than 4% in fiscal 2014, and not more than 6% in fiscal 2015 and thereafter. The legislation also provides, among the other provisions related to rate calculations, that the sales and use tax equivalent rate will not change from the prior fiscal year if the price of motor fuel increases by more than 15%.

Additionally, the legislation creates a new Local Transportation Infrastructure Aid Account in the Transportation Trust Fund (TTF). The percentage distributed to each fund, based on the 6% rate, will reach 20% for the local fund and 80% for the State TTF. Of the local funds, 70% goes to the counties, 20% to municipalities, and 10% to Baltimore City.

Under the legislation, no part of the TTF may be credited to the general fund or to a special fund unless approved by the General Assembly through a process specified in the bills. If approved, the TTF may be used for defense or relief purposes, but only under circumstances specified in the bills. Any funds transferred or diverted must be repaid within five years.

Taxes – Electing Small Business Trusts (ESBT)

[HB 128](#), the Electing Small Business Trusts State Tax Loophole Elimination Act, requires, for State income tax purposes, that a fiduciary include the amount of income of an ESBT derived from stock in an S corporation for

the purpose of calculating federal adjusted gross income. The Comptroller's Office has advised that income generated from S corporation stock is not taxed for State income tax purposes since federal adjusted gross income is the starting point for the Maryland adjusted gross income of a fiduciary. The bill takes effect July 1, 2012, and applies to tax years 2012 and beyond.

HUMAN RESOURCES

Drug Testing Requirements for Public Assistance

Temporary cash assistance applicants and recipients under the Family Investment Program are required to submit to testing for controlled dangerous substances under [SB 287](#), which received a hearing this week. An applicant who tests positive is denied assistance, but may reapply upon successful completion of a drug abuse treatment program or after 90 days if treatment is unavailable and a subsequent drug test is negative.

A recipient who does not comply with drug testing requirements must be given 30 days notice that assistance benefits will be redirected due to noncompliance. Benefits immediately resume once the recipient tests negative. If a recipient does not submit to testing within the 30-day notice period or tests positive, a local department of social services must redirect temporary cash assistance benefits to a third-party payee or compliant adult recipient. Assistance resumes once the recipient successfully completes a drug abuse treatment program or after 90 days if treatment is unavailable and a subsequent drug test is negative. The companion bill, [HB 560](#), has a hearing next week.

REAL PROPERTY, ESTATES, AND TRUSTS

Heard by a committee, [SB 196](#) requires a political subdivision to conduct an inspection of every multifamily dwelling unit with a balcony at least once every five years in order to ensure that the balcony meets the requirements of the applicable local housing code or the Minimum Livability Code. A political subdivision may authorize a third party to conduct the inspections and may charge a property owner a fee for each periodic balcony inspection.

STATE GOVERNMENT

Legislative Immunity – Prosecutions for Bribery

A recent Maryland Court of Appeals decision describes the legislative immunity or privilege of federal, State,

and local legislative officials. The decision states in part that:

Under what are often referred to the “speech and debate” clauses in the Federal Constitution and the Maryland Constitution, ... [m]embers of those bodies generally may not be compelled to answer for or defend, in a non-legislative governmental forum, what they say or do in the legislative process.

SB 284, a proposed constitutional amendment, establishes that the “speech and debate” immunity for a senator or delegate does not apply in a prosecution for demanding or receiving a bribe, fee, reward, or testimonial to influence the performance of, or to neglect or fail to perform, the senator’s or delegate’s official duties.

Elected Officials Removal from Office – Crimes

Under a proposed constitutional amendment (**SB 544/HB 211**) if an elected State or local official who, while in office, is convicted of or enters a plea of guilty or *nolo contendere* with respect to specified crimes, the official must be removed rather than suspended from office. Currently, when the conviction becomes final, the elected official is removed from office. An existing provision requiring that the official be reinstated if a conviction is reversed or overturned remains in place.

Public Officials – Chauffeured Transportation Services

Effective July 1, 2012, **HB 413** prohibits any member of the General Assembly, including the President and the Speaker, from requesting for any purpose the use of personnel and vehicles assigned by the Department of State Police (DSP) to the Legislative Security Force for chauffeured transportation services. Also, a “public official” may not request DSP or require an agency employee to provide such services in any vehicle. Emergency and justifiable health or medical needs circumstances trigger exceptions, and the Governor and Lieutenant Governor are exempt.

Investment Activities in Iran

A 2010 federal law authorizes states to adopt measures to divest State or local government assets from any person who engages in investment activities in Iran, or to prohibit State and local government investment in those persons. Administration legislation (**SB 235/HB 440**) authorizes the State to debar any person from entering into or renewing a procurement contract with the State if the person’s name is on a list compiled and maintained by the Board of Public Works of those who engage in investment activities in Iran.

TRANSPORTATION

Displaying the Flag

HB 132, which deals with safely displaying the flag in a highway roundabout, was heard by a committee this week. The bill requires the State Highway Administration (SHA) to establish a permit program under which a State resident can apply to display the flag, and requires the SHA to adopt safety guidelines for permit holders.

The bill is the result of highway workers removing an unpermitted 25-foot flagpole at the intersection of Route 94 and Old Frederick Road in Woodbine because the base had been cemented into the ground, posed a safety threat, and was a hazard to motorists. The crossfiled bill is **SB 382**.

Text Messaging

HB 55 passed the House. The bill clarifies that the prohibition against using a text messaging device, either hand-held or hands-free, while driving applies to all drivers younger than age 18. It also specifies that enforcement of the prohibition is a primary offense. The crossfiled bill, **SB 529**, will be heard by a Senate committee next week. Two additional House bills, **HB 123** (failed) and **HB 163** (failed), dealing with test messaging while driving were withdrawn.

Child Safety Seats

SB 185/HB 313, both before committees recently, prohibit any child younger than age 13 from riding in a vehicle’s front passenger seat, and require that children younger than age 2 be strapped into a rear-facing car seat. Under the proposals, a child between ages 2 and 8 and less than 4 feet 9 inches tall must ride in a car seat or booster seat regardless of the child’s weight, but if the child is 4 feet 9 inches or taller, he or she may wear a seat belt instead. Current law requires drivers to make sure that children under age 8 use car seats or booster seats if they weigh 65 pounds or less and are less than 4 feet 9 inches tall.

*Bill status is current as of 5:30 p.m. on February 17, 2012. However, subsequently on Friday evening the House voted 72-67 to pass the Civil Marriage Protection Act (**HB 438**).*